

**UNITED STATES DISTRICT COURT  
DISTRICT OF NEVADA**

ANDREW TEDESCO,  
Plaintiff  
v.  
GMAC MORTGAGE,  
Defendant

2:11-CV-633 JCM (CWH)

## ORDER

16 Presently before the court is plaintiff's motion to amend complaint and for a status check.  
17 (Doc. # 28). No response in opposition has been filed and the deadline date for filing a response has  
18 expired.

19 Plaintiff seeks to amend his complaint to add Ocwen Loan Servicing LLC. Plaintiff alleges  
20 that defendant GMAC has transferred the property in this lawsuit to Ocwen. Plaintiff seeks to  
21 include a declaratory and fraud cause of action against Ocwen.

22 Fed. R. Civ. P. 15(a) provides that leave to amend “shall be freely given when justice so  
23 requires.” The Supreme Court has interpreted Rule 15(a) and confirmed the liberal standard district  
24 courts must apply when granting such leave. In *Foman v. Davis*, 371 U.S. 178 (1962), the Court  
25 explained: “In the absence of any apparent or declared reason—such as undue delay, bad faith or  
26 dilatory motive on the part of the movant, repeated failure to cure deficiencies by amendments  
27 previously allowed, undue prejudice to the opposing party by virtue of allowance of the amendment,

1 futility of the amendment, etc.—the leave sought should, as the rules require, be ‘freely given.’” *Id.*  
2 at 182.

3 Additionally, local rule 7-2(d) states that “[t]he failure of an opposing party to file points and  
4 authorities in response to any motion shall constitute a consent to the granting of the motion.” The  
5 court finds good cause to grant the motion to amend.

6 The motion is partially titled as one requesting a status check. It is not entirely clear what  
7 relief or what issues plaintiff seeks via a status check. No section in the motion addresses a status  
8 check. The court denies the part of the motion requesting a status check since the court cannot  
9 discern the purpose, relief, or the issues plaintiff seeks to resolve via a status check.

10 Accordingly,

11 IT IS HEREBY ORDERED, ADJUDGED, AND DECREED that plaintiff’s motion to amend  
12 complaint and for a status check (doc. # 28) be, and the same hereby, is GRANTED in part and  
13 DENIED in part consistent with the foregoing.

14 IT IS FURTHER ORDERED that plaintiff shall file the amended complaint (doc. # 28, Exh.  
15 4) within ten (10) days of this order.

16 DATED July 15, 2013.

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**UNITED STATES DISTRICT JUDGE**  
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